

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

HB 3 - SB 26

January 27, 2023

SUMMARY OF BILL: Expands the offenses of assault and aggravated assault against a first responder or nurse to include offenses against any healthcare provider who is licensed, certified, or otherwise authorized or permitted by the laws of any state to administer health care in the ordinary course of business or practice of a profession.

FISCAL IMPACT:

Increase State Expenditures – \$19,400 Incarceration

Increase Local Expenditures – \$16,700/FY23-24 and Subsequent Years*

Assumptions:

Assault

- Pursuant to Tenn. Code Ann. § 39-13-116(c)(1) and this legislation, assault against a healthcare provider will be a Class A misdemeanor offense punished by a mandatory fine of \$5,000 and a mandatory minimum sentence of 30 days incarceration.
- This analysis assumes individuals charged with assault against a licensed or certified healthcare provider pursuant to this legislation would be charged with a Class A misdemeanor offense of assault pursuant to Tenn. Code Ann. § 39-13-101 under current law.
- It is assumed that an individual convicted of a Class A misdemeanor offense spends an average of 15 days in a local jail.
- Based on information previously provided by the Department of Health, there are 382,499 licensed or certified healthcare providers in Tennessee.
- According to the U.S. Bureau of Labor Statistics 2018 fact sheet of workplace violence in the healthcare and social assistance industry, the incidence rate for nonfatal occupational injuries and illnesses involving days away from work resulting from intentional injury by another person from 2011 thru 2018 was 10.4 per 10,000 full-time workers.
- The incidence rate for nonfatal occupational injuries and illnesses of part-time workers is unknown; however, it is reasonably assumed that the incidence rate is approximately 10 per 10,000 of all workers. Therefore, 382 [(382,499 / 10,000) x 10] of all licensed or certified healthcare providers will experience an assault annually.

- It is assumed that 10 percent, or 38.2 (382 x 10.0%), of assaults will result in arrest, and that 50 percent, or 19.1 (38.2 x 50.0%), of arrests will result in a Class A misdemeanor conviction of assault against a healthcare provider per year.
- The proposed legislation will result in 19.1 convictions annually serving an additional 15 days (30-15) in local jail.
- Based on cost estimates provided by local government entities throughout the state and reported bed capacity within such facilities, the weighted average cost per day to house an inmate in a local jail facility is \$58.21.
- The recurring mandatory increase in expenditures to local governments is estimated to be \$16,677 (19.1 convictions x \$58.21 x 15) in FY23-24 and subsequent years.

Aggravated Assault

- This analysis assumes individuals charged with aggravated assault against a healthcare provider pursuant to this legislation would be charged with a Class C felony offense of aggravated assault pursuant to Tenn. Code Ann. § 39-13-102 under current law.
- Pursuant to Tenn. Code Ann. § 39-13-116(c)(2) and this legislation, aggravated assault against a healthcare provider is punished by a mandatory fine of \$15,000 and a mandatory minimum sentence of 90 days incarceration.
- Based on information provided by the Department of Correction, there has been an average of 366 convictions for aggravated assault in each of the last 10 years where the offender received an average of 70 days pretrial jail credit before being sentenced to community supervision.
- Of those 366 convictions, it is assumed 5 percent or 18.3 (366 x 5.0%) were for offenses against a first responder or healthcare provider.
- This analysis assumes individuals convicted of a Class C felony offense of aggravated assault against a first responder or healthcare provider will serve 20 additional days (90-70) incarcerated under the proposed legislation.
- Since offenders are housed in local jail while awaiting trial, it is reasonably assumed these individuals will remain in a local facility to serve the 20 additional days, as opposed to being transported to a state facility.
- Based on population data from the U.S. Census Bureau, population growth in Tennessee averaged 0.96 percent per year (from 2018 to 2021).
- The weighted average operational costs per day are estimated to be \$50.63 for inmates housed at state facilities and \$52.11 for inmates housed at local facilities.
- The estimated increase in incarceration costs is estimated to be the following over the next three-year period:

Increase in State Expenditures	
Amount	Fiscal Year
\$ 19,100	FY23-24
\$ 19,200	FY24-25
\$ 19,400	FY25-26

- Pursuant to Public Chapter 1007 of 2022, recurring costs increases are to be estimated on the highest of the next three fiscal years; therefore, the recurring increase in

incarceration costs relating to aggravated assault on a first responder or healthcare provider will be \$19,400.

- Based on the Fiscal Review Committee's 2008 study and the Administrative Office of the Courts' 2012 study on collection of court costs, fees, and fines, collection in criminal cases is minimal due to defendants often not being able to pay them; therefore, any increase in local revenue from fines is estimated to be not significant.
- The estimated fiscal impact of the proposed legislation does not consider the availability of beds in state and local facilities, but is based solely on the current operating costs of state facilities and the reimbursement rates for local facilities as is required by Tenn. Code Ann. § 9-4-210.
- All calculations used in completion of this fiscal note are available upon request.

**Article II, Section 24 of the Tennessee Constitution provides that: no law of general application shall impose increased expenditure requirements on cities or counties unless the General Assembly shall provide that the state share in the cost.*

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink that reads "Krista Lee Carsner". The signature is written in a cursive, flowing style.

Krista Lee Carsner, Executive Director

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